

C) **Remarks:**

Response to Rejections:

1. Claims 2-6 and 15-19 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically regarding the issue raised by the Examiner with respect to condiment form:

Applicant believes the pending claims to be definite with respect to 35 U.S.C. 112, second paragraph, in that woven form, chopped form, face-fused form, and side-fused form are clearly defined in the originally filed application.

Specifically, the description of face-fused condiment slices is disclosed at various locations in the specification including, for example, at page 7, line 21 through page 8; Page 9 discusses methods of forming face-fused condiment sheets; Pages 9-10 discuss using an edible bonding sheet placed between the slices to fuse the condiment sheets; Pages 10-12 discuss other bonding methods; and Figures 5-11 show the concept of face-fused food condiment slices.

Also, the description of side-fused condiment slices is disclosed at various locations in the specification including, for example, at pages 13-17, which discuss side-fused combination condiments fused together at their side portions; Figures 12A-12L and 13-14 show example structures and methods of side-fusion.

Also, the description of woven condiment slices is disclosed at various locations in the specification including, for example, at pages 17-20 which discuss woven condiment slices and methods of forming; Pages 20-26 discuss forming of the strips used to form the woven condiment slices; Figures 21-23 show example structures of woven condiment slices and sheets. It is noted that the woven condiment form is obtained by weaving strips formed from condiments.

Also, the description of side-fused-face-fused condiment slices is disclosed at various locations in the specification including, for example, at page 74 which discusses

that side-fused-face-fused condiment strips, that are subsequently used in forming woven food condiment slices, obtained by face-fusing a condiment slice to a side-fused condiment slice.

Specifically regarding the issue raised by the Examiner with respect to how the condiment slice is made (see page 2 of the Office action mailed October 24, 2003, paragraph 2, lines 8-9 including the comment "The concept of sandwiching is not described in the claims or how the condiment slice is made ...":

It is noted that the claims are drawn to product and not method.

2. Claims 1 and 7-14 have been rejected under 35 U.S.C. 102(b) as being anticipated by Durst, Patent No. 3,615,597.

Specifically regarding the rejection of claim 10:

While claim 10 has been amended, it is noted that Durst does not teach forming or using mayonnaise as a food condiment slice, as previous claim 10 recited. Claim 10 was rejected under 102(b). A claim is anticipated by a reference only if each and every element as set forth in the claim is found in the reference. For these reasons, Applicant submits that Durst did not anticipate the claimed subject matter of the previously presented claim 10.

Specifically regarding the rejection of claim 14:

The Examiner has indicated in the rejection of claim 14 that use of the condiment slice as a beverage slice does not impart patentability to the claim. However, the Examiner should note that the claim is drawn specifically to a *beverage condiment slice*, and not a food condiment slice to be used in a beverage. Contrary to the Examiner's position, the limitation of "*beverage condiment slice*" is a structural/product limitation.

Durst does not teach or suggest the use of beverage condiment slices. A claim is anticipated by a reference only if each and every element as set forth in the claim is found in the reference. For these reasons, Applicant submits that Durst does not anticipate the claimed subject matter of claim 14. Accordingly, the Examiner is requested to withdraw this rejection.

Amended Claims are allowable over Durst:

Claims 1, 7, 10, 14, 23, 34, 35, 36, and 37 are the current independent claims. The Durst reference is drawn to forming single, solid, flexible food condiment sheets. Applicant's amended claims provide food condiment slices having specific structures which are not met by the Durst reference. Applicant forms food condiment slices that are flexible, have a non-sticky feel, and retain their shape during handling. Accordingly, the pending claims are allowable over Durst.

3. Claims 1 and 7-14 have been rejected under 35 U.S.C. 102(b) as being anticipated by Mayfield, Patent 5,853,778.

Specifically regarding the rejection of claims 11 and 12:

While claims 11 and 12 have been amended, it is noted that the Examiner incorrectly rejected previous claims 11 and 12 under 35 U.S.C. 102(b) in that Mayfield does not teach forming or using barbecue sauce (previous claim 11) or steak or meat sauce (previous claim 12) as a food condiment slice. A claim is anticipated by a reference only if each and every element as set forth in the claim is found in the reference. For these reasons, Applicant submits that Mayfield did not anticipate the claimed subject matter of the previously presented claims 11 and 12.

Specifically regarding the rejection of claim 14:

The Examiner has indicated in the rejection of claim 14 that use of the condiment slice as a beverage slice does not impart patentability to the claim. However, the Examiner should note that the claim is drawn specifically to a **beverage condiment slice**, and not a food condiment slice to be used in a beverage. Contrary to the Examiner's position, the limitation "**beverage condiment slice**" is a structural/product limitation. Mayfield does not teach or suggest the use of beverage condiment slices. A claim is anticipated by a reference only if each and every element as set forth in the claim is found in the reference. For these reasons, Applicant submits that Mayfield does not anticipate the claimed subject matter of claim 14. Accordingly, the Examiner is requested to withdraw this rejection.

Amended Claims are allowable over Mayfield:

Claims 1, 7, 10, 14, 23, 34, 35, 36, and 37 are the current independent claims. The Mayfield reference is drawn to applying edible material to a moist or sticky food product. Applicant's invention and pending claims are drawn to food condiment slices having specific structures which are not met by the Mayfield reference. Applicant's invention forms food condiment slices that are flexible, have a non-sticky feel, and retain their shape during handling. Accordingly, the pending claims are allowable over Mayfield.

4. Claims 1 and 7-14 have been rejected under 35 U.S.C. 102(b) as being anticipated by Bogdan, Patent No. 5,567,454.

Specifically regarding the rejection of claims 8-12:

While claims 8-12 have been amended, it is noted that the Examiner incorrectly rejected claims 8-12 under 35 U.S.C. 102(b) in that Bogdan does not teach forming or using catsup (previous claim 8), mustard (previous claim 9), mayonnaise (previous claim

10), barbecue sauce (previous claim 11), or steak or meat sauce (previous claim 12) as a food condiment slice. A claim is anticipated by a reference only if each and every element as set forth in the claim is found in the reference. For these reasons, Applicant submits that Bogdan did not anticipate the claimed subject matter of Applicant's previously presented claims 8-12.

Specifically regarding the rejection of claim 14:

The Examiner has rejected claim 14, but has not provided reasoning as to why the claim is rejected. It is noted that Bogdan does not teach or suggest the use of *beverage condiment slices* as recited in claim 14. It is noted that the limitation in claim 14 of a "beverage condiment slice" is a structural/product limitation. A claim is anticipated by a reference only if each and every element as set forth in the claim is found in the reference. For these reasons, Applicant submits that Bogdan does not anticipate the claimed subject matter of claim 14. Accordingly, the Examiner is requested to withdraw the rejection.

Amended Claims are allowable over Bogdan:

Claims 1, 7, 10, 14, 23, 34, 35, 36, and 37 the current independent claims. The Bogdan reference is drawn to forming nut butter and jelly food slices. Applicant's invention and pending claims are drawn to food condiment slices with specific structures which is not met by the Bogdan reference. Accordingly, the pending claims are allowable over Bogdan.

5. **Claims 2-6 and 15-20 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Durst or Mayfield or Bogdan.**

Specifically regarding claim 6:

The Examiner indicated with respect to the subject matter of claims 2-5 (currently amended claim 6) that since Durst, Mayfield, and Bogdan indicate that slice size and shape are not critical, the claimed limitations as a whole are obvious, see page 6, paragraph 2, of the Office action mailed October 24, 2003. In response, however, Durst, Mayfield, and Bogdan do not state that size and shape of the condiment slice are noncritical. Second, the claimed limitation is not a limitation to size and shape of the slice, but rather structure, so it is unclear why the Examiner is making a blanket obvious statement for a limitation which isn't claimed. The claimed limitation is that the slice is a woven food condiment slice, a side-fused food condiment slice, a chopped food condiment slice, a side-fused-face-fused food condiment slice, and a face-fused food condiment slice. The Examiner is required to meet the limitation that is claimed -- which is not directed to slice size and shape, but rather structure.

Specifically regarding claims 14-20:

The Examiner has rejected claim 20 but has not provided reasoning as to why the claim is rejected. It is noted that neither Durst, Mayfield, or Bogdan teach or suggest a **beverage condiment slice** as recited in claim 14 and do not teach the specific claimed structures of the beverage slices as recited in claims 15-19 (now combined in claim 15). It is further noted that neither Durst, Mayfield, or Bogdan teach or suggest the specific beverages recited in claim 20. Contrary to the Examiner's statement that ***"Each of these references teach providing a condiment slice ... comprising at least one condiment or or beverage condiment which include flavors which both for use in a beverage or a sandwich."*** (see Office Action of 10/24/2003, Page 5, last paragraph), these references do not teach or suggest beverage condiments for use in beverages. The Examiner's

assertion is simply not supported by the references. In fact, the references relied upon by the Examiner do not teach any of the claimed subject matter of claims 14-20. For these reasons, Applicant submits that none of Durst, Mayfield, or Bogdan anticipate or make obvious the claimed subject matter of claims 14-20. Accordingly, the Examiner is requested to withdraw the rejection.

New claims 21-36 have been added. The subject matter of the new claims and the amendments is fully supported by the original disclosure and no new matter has been added. Support for the subject matter of the new claims and amendments can be found throughout the specification, Abstract, and Figures. Applicant respectfully submits that the above amendments and/or arguments place the application for patent in condition for allowance and early notification to that effect is respectfully requested.

Respectfully Submitted,


Robin S. Gray
Registration No.: 48,093

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on December 30, 2003.

Robin S. Gray

Applicant


Signature

December 30, 2003

Date of Signature